

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TIMOTHY LAWRENCE-RODRIGUEZ,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 04-71809

Hon. Gerald E. Rosen

Magistrate Judge Wallace Capel, Jr.

**ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on Septmeber 26, 2005

PRESENT: Honorable Gerald E. Rosen
United States District Judge

On June 7, 2005, Magistrate Judge Wallace Capel, Jr. issued a Report and Recommendation ("R & R") recommending that the Court deny Plaintiff Timothy Lawrence-Rodriguez's motion for summary judgment and grant the Defendant Commissioner of Social Security's motion for summary judgment. Plaintiff filed objections to the R & R on June 14, 2005, and Defendant filed a response to these objections on June 30, 2005.¹ Having reviewed the R & R, Plaintiff's and Defendant's subsequent submissions, and the record as a whole, the Court readily concludes that the R

¹Plaintiff, in turn, filed a response to Defendant's response on July 7, 2005.

& R should be adopted in its entirety and judgment entered in Defendant's favor.

Plaintiff's lengthy objections to the R & R essentially fall into four categories. First, Plaintiff takes issue with all manner of statements in the R & R — all of which, so far as the Court can tell, are entirely accurate, and many of which are relatively minor and presumably intended merely to provide helpful background information. As an example, the Magistrate Judge cites Plaintiff's testimony that he "drove himself to the [administrative] hearing," (R & R at 4), yet Plaintiff protests that his wife accompanied him on this trip. Plaintiff later asserts that the R & R is "totally false" as to the date he filed his response to Defendant's motion, yet a cursory review of the Court's docket confirms the Magistrate Judge's statement on this subject. In any event, even assuming that the R & R is less than entirely accurate on some of these points — and, again, the Court sees no evidence of this — Plaintiff fails to suggest how this would in any way undermine the Magistrate Judge's determination that the decision of the Administrative Law Judge ("ALJ") is supported by substantial evidence.

Next, Plaintiff challenges the testimony of the vocational expert regarding the salient aspects of various jobs. Plaintiff contends, for example, that the vocational expert was simply wrong in testifying that housekeeping positions are generally capable of being performed in relative isolation. As explained in the R & R, however, the pertinent Social Security regulations permit the ALJ to rely on such testimony from a vocational expert regarding matters within her area of expertise. (See R & R at 19.)

Plaintiff's remaining objections merit little discussion. Most of his objections rest

upon the proposition that the ALJ and/or the Magistrate Judge are “wrong” in their assessments of the evidentiary record, and that a “correct” interpretation of this record would support his claim for benefits. Be that as it may, the ALJ’s assessment of the record need not be the “only” or the “best” reading of this evidence — rather, the ALJ’s findings must be upheld so long as they enjoy the support of substantial evidence in the record. The Magistrate Judge concluded, and the Court agrees, that the ALJ’s decision survives scrutiny under this standard. Finally, to the extent that Plaintiff expands his claims of bias and prejudice to include the Magistrate Judge, the Court echoes the Magistrate Judge’s warning that such unfounded accusations against judicial officers and administrative officials have no place and will not be tolerated.

Accordingly,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's June 7, 2005 Report and Recommendation is ADOPTED in its entirety as the ruling of this Court. IT IS FURTHER ORDERED, for the reasons stated in the R & R, that Defendant's October 12, 2004 Motion for Summary Judgment is GRANTED, and that Plaintiff's August 9, 2004 Motion for Summary Judgment is DENIED.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: September 26, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 26, 2005, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager